

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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The Bank of New York Mellon Trust	:	
Company, N.A. (f/k/a The Bank of New	:	
York Trust Company, National Association)	:	
as Trustee for Morgan Stanley Capital I Inc.	:	No. 13-06988 (PKC)
Commercial Mortgage Pass -Through	:	
Certificates Series 2007-IQ14,	:	
	:	<b>NOTICE OF MOTION</b>
Plaintiff,	:	
v.	:	
	:	
Peter H. Gebert, et al.,	:	
	:	
Defendants.	:	

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Please take notice that, upon the accompanying memorandum of law and all other papers and proceedings in this action, defendants Peter H. Gebert, Ellen J. Gebert, Hampton C. Randolph and Evelyn M. Randolph, by their undersigned attorneys, will move this Court, before the Honorable Kevin P. Castel, United States District Judge, at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, on a date and at a time to be set by the Court so that counsel may be heard, for entry of an order: (i) dismissing the complaint for improper venue pursuant to Federal Rule of Civil Procedure 12(b)(3) or, in the alternative, transferring venue pursuant to 28 U.S.C. Section 1406(a); (ii) dismissing plaintiff's claims for fraud (Count II of the Complaint), conversion (Count III of the Complaint) and demand for punitive damages; and (iii) awarding such other and further relief as the Court deems just and proper.

Dated: New York, New York  
January 6, 2014

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